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To: All Long-Term Care, ICF/IID and Assisted Housing Facilities
From: Bill Montejo, RN, Director, Division of Licensing and Certification
Re: Revised Crisis Staffing Guidance Due to Covid-19
Date: September 24, 2021

On December 8, 2020, the Division of Licensing and Certification ("DLC") distributed revised guidance for facilities regarding a progression of options and things to consider as part of each facility's emergency staffing plans. As this pandemic continues and the availability of staffing resources and assistance becomes more challenging, we are revising the December 8, 2020 staffing guidance. This Revised Crisis Staffing Guidance ("Guidance") clarifies the expectations and process for the extreme option of allowing COVID-19 positive units to be staffed by COVID-19 positive, asymptomatic, staff. We are also again urging facilities to implement mutual aid mechanisms to address these extreme staff shortages.

As stated in the previous staffing guidance, facilities should network with other facilities and through provider Associations to develop plans to help each other address extreme staffing crisis situations. This could include developing uniform disaster/crisis Memorandums of Understanding ("MOU") and/or mutual aid agreements, which would provide temporary staffing relief for facilities experiencing severe staffing shortages due to COVID-19 outbreaks. Such MOUs and/or mutual aid agreements would also enable the development of Long-Term Care crisis staffing teams to help facilities through this, and any future, staffing crisis.

I. Emergency Staffing Plans--Progressive Steps:

1. If the facility has a resident or staff who has tested positive for COVID-19, the facility should contact the Maine CDC, begin contact tracing, and begin universal testing as outlined in CMS QSO-20-39 or as instructed by the Maine CDC. The facility should also implement staff unit isolation assignments. In order to minimize cross contamination and spread of the virus to other units, staff should be assigned to work on specific/dedicated units and should not congregate together in breakrooms.

2. While the availability of temporary staff through staffing agencies remains scarce, facilities should still maintain relationships with multiple staffing agencies and conduct outreach to health education vocational programs and universities that may have students looking for part time work. Facilities should also work with these programs on the possibility of offering course credit for their work as an incentive for students to assist in the facility while also getting paid.

Consider the use of hiring resources such as ConnectToCareJobs.com.

- Contact Staffing agencies and engage Home Health Agencies and Home Health Care Services Providers to discuss if they are able to provide temporary staffing assistance.
- Facilities must revise their facility specific emergency plans to include interventions for significant staff shortages.

3. Contact the facility's corporate office or parent organization and map out plans for how and when to request staffing assistance from them. Corporate-owned facilities are strongly encouraged to obtain 1-2 staff from multiple corporate-owned facilities to provide support to the facility rather than to conduct temporary discharges of residents.

4. Maintain a list of local health and other applicable facilities, municipalities, and/or businesses that might provide some community volunteers or staffing assistance during an outbreak crisis, which creates a staffing shortage situation. Develop contacts with those organizations to create pathways that might both staff facilities in crisis, and keep those experienced individuals employed in health care.

5. Work with the Maine Long Term Care Ombudsman's Office for assistance with family and community meetings and the possibility of a family meeting to discuss family caregivers.

6. Consider emergency/disaster staffing after due diligence hiring as described above is unsuccessful. The facility must have documentation of efforts conducted to obtain staff before discussing the utilization of the extreme emergency staffing III option, described below, can occur.

II. Emergency Staffing Plans After Implementing All Progressive Steps Listed Above:
This current COVID-19 crisis is fluid and licensed facilities need to have reasonable documentation to demonstrate that they are doing due diligence to obtain and maintain facility staffing. Facilities that were unsuccessful in hiring and that have documentation of due diligence to obtain qualified licensed and certified staff and are unable to do so, may then proceed with alternate/emergency crisis staffing. We provide the following as guidance for such a process.

The current nursing home licensure Rules require that facilities have sufficient staff to provide the necessary care and services. (See 8.B.1 below). The Rules also allow for the use of non-nursing staff to meet the needs of residents and the facility. The Rules allow for these non-nursing staff to provide resident care, when staffing patterns show a demonstrated need, and when the training, qualifications, and job descriptions reflect the activities/work these non-nursing staff are being hired to do. (See 8.C.2 below).

Thus, if a facility has insufficient C.N.A. staff during the current crisis, a facility can create a COVID-19 staffing policy under 8.A, and determine the training and qualifications needed to fulfill the critical vacancies during this crisis. Once the staffing policy is completed, a facility should modify or create job descriptions that address the tasks/duties, and work expectations of these critical positions, and the training and qualifications needed.

For example, a therapist aide's job description could have an addendum attached to it, outlining new tasks/duties during the crisis (assisting with resident transfers, ambulation, etc.). The same addendum would outline the minimum competency determination or training used to ensure the aide is competent to perform the new tasks/duties he/she is being asked to do during the crisis.

Once the staffing policy and the job description addendum are finished, and the facility has determined the therapist's aide is competent in performing the new duties, the aide may perform those new tasks /duties. No waiver of any federal regulation or State rule is required.

8.A. **Personnel Policies**

The facility shall have policies that address all personnel practices.

8.B. **Staff Qualifications**

8.B.1. The facility must employ, on a full time, part time, or consultant basis those persons necessary to carry out the provisions of these regulations.

8.B.2. Staff must be licensed, certified, or registered in accordance with applicable State laws.

8.C. **Employees**

8.C.2. **Non-Nursing Personnel**

There shall be adequate numbers of non-nursing personnel to perform the necessary servicesand meet the needs of the residents and the facility. These persons shall not give resident care, unless staffing patterns, training, qualifications and job descriptions reflect the activities of such multi-purpose personnel.

III. Emergency Staffing Extreme Options:

If staff shortages continue despite all mitigation strategies noted previously, then prior to initiating any imminent closure or resident transfer activities, facilities shall consider the use of one of the following **extreme** options:

Options:

1. Staff who have had an unprotected exposure to a COVID-19 case, but who are asymptomatic and either have not been tested for COVID-19 or are COVID-19 negative, may continue to work.

   In this option, staff need to comply with the following:
   a. still participate in daily screening consistent with CDC screening process and ensure absence of symptoms each day before starting work; consider increasing symptoms checks to two or more times during shift vs. only at the start of shift.
   b. practice source control (wearing a facemask not a cloth face covering). Eye protection when indicated based on the community engagement guidance (https://www.maine.gov/dhhs/sites/maine.gov.dhhs/files/inline-files/Testing-CommEngagement-Table.pdf). If the facemask must be removed (e.g. to eat a meal/drink), then it must be removed in private room/space and away from others. This will minimally be required while at work for 14 days after exposure to a COVID-19 case;
   c. cease patient care activities and notify their supervisor if they develop even mild symptoms. If they develop symptoms, these individuals should be prioritized for testing; and
   d. staff must still comply with quarantine outside of workplace.

2. COVID-19 positive staff who are asymptomatic and are well enough to work but have not met all Federal CDC Return-to-Work Criteria[1] may work after the facility has consulted with the Maine CDC medical epidemiologists and received their approval to move forward with this option. The approval of the use of asymptomatic COVID-19 positive staff only applies to utilization in a COVID-19 positive unit. The facility must establish strict monitoring and interventions to ensure COVID-19 positive staff do not provide care to COVID-19 negative residents or have interactions with COVID-19 negative staff that may result in cross contamination (such as sharing breakrooms).

Additionally, staff members described in Option 2 may only work where they would not increase exposure to residents and other staff (for example, clerical and administrative duties without direct contact, such as answering phones, coordinating outreach for staffing and supply needs, and contacting families and physicians for communication and order clarifications, etc.).

Should asymptomatic COVID-19 positive staff work on a COVID-19 positive unit under this extreme option, they shall:

a. self-monitor for symptoms and seek re-evaluation if they become symptomatic
b. wear a facemask and face shield for source control – not a cloth face covering – at all times while in the healthcare facility until all symptoms are completely resolved or until 10 days after illness onset, whichever is longer. Eye protection when indicated based on the community engagement guidance (https://www.maine.gov/dhhs/sites/maine.gov.dhhs/files/inline-files/Testing-CommEngagement-Table.pdf);

    A. After this time period, these staff should revert to their facility's policy regarding universal source control (https://www.cdc.gov/coronavirus/2019-ncov/hcp/infection-control-recommendations.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Finfection-control%2Fcontrol-recommendations.html) for the remainder of the pandemic.

c. be restricted from contact with severely immunocompromised patients (e.g., transplant, hematology-oncology);
d. prioritize their duties in the following order:
    1. perform job duties that do not have them interacting with others (e.g., patients or other staff), such as in telemedicine services;
    2. provide direct care only for patients who are confirmed COVID-19 positive, preferably in a cohort setting, and through separate entrance and exits than those used by non-COVID-19 staff; and

e. will remain in isolation for the necessary duration when outside of the workplace.

[1] Federal CDC Return-to-Work Criteria https://www.cdc.gov/coronavirus/2019-ncov/hcp/return-to-work.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fhealthcare-facilities%2Fhcp-return-work.html.

In addition to potentially exposing patients, these COVID-19 positive staff could also expose their co-workers. Therefore, these COVID-19 positive staff:

A. need to wear facemasks (not a cloth face covering) at all times, even when they are in non-patient care areas such as breakrooms. Eye protection when indicated based on the community engagement guidance;
B. shall not use the same breakrooms as non-positive staff; and
C. if they must remove their facemask (for example, in order to eat or drink), they should separate themselves from others and remain in the COVID-19 positive facility areas, before removing their facemask.

Notifications:

Facilities choosing to use an extreme staffing option shall notify the DLC and Maine CDC Epi Team member they have been in communication with for their outbreak situation in writing that they are in a staffing crisis and are exercising an Emergency Staffing Extreme Option. This notification shall include the following:

A. Identification of which extreme staffing option the facility will be using (Option 1 or 2 as noted above).
B. The date and time this was discussed with the Maine CDC medical epidemiologist and DLC as noted above.
C. Documentation of the interventions and efforts taken to address staffing before utilization of the extreme staffing option. Facilities do not need to wait for written approval from DLC prior to utilization of these options provided the Maine CDC medical epidemiologist have been consulted and are in agreement with the utilization of these options. Compliance will be evaluated through an audit process conducted by DLC.

Please continue to monitor the CDC guidance *at least daily* as this continues to unfold.

Please feel free to contact the Division of Licensing and Certification or the Office of Aging and Disability Services if there are questions regarding this guidance.

CRISIS STAFFING GUIDANCE 9/8/2021